

**INTERGOVERNMENTAL AGREEMENT BETWEEN
ADAMS COUNTY AND
THE CITY/TOWN OF COMMERCE CITY, COLORADO
FOR THE NOVEMBER 2, 2021 COORDINATED ELECTION**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this 20 day of JULY, 2021, by and between the Adams County Clerk and Recorder, located at 4430 S. Adams County Parkway, Suite E3102, Brighton, Colorado 80601, hereinafter referred to as the "Clerk and Recorder," and the City/Town of COMMERCE CITY, COLORADO, located at 7887 E 60TH AVE, COMMERCE CITY, CO 80022, hereinafter referred to as the "Municipality" for the purpose of conducting a Coordinated Election to be held on **November 2, 2021**. The Clerk and Recorder and the Municipality may be collectively referred to herein as the "Parties."

RECITALS

WHEREAS, pursuant to Colo. Const. art. XIV, § 18(2)(a), and Colorado Revised Statute (C.R.S.) § 29-1-203, the County and the Municipality may cooperate or contract with each other to provide any function or service lawfully authorized to each, and any such contract may provide for the sharing of costs, the imposition of taxes, and incurring of debt; and,

WHEREAS, pursuant to § 1-1-111, C.R.S. of the Uniform Election Code of 1992 (§ 1-1-101, *et. seq.* C.R.S.), hereinafter referred to as the "Code," the Municipality is authorized to contract with the Clerk and Recorder to perform all or part of the duties associated with conducting elections; and,

WHEREAS, the Clerk and Recorder and the Municipality have determined that it is in their best interests to conduct the election as a "coordinated election," as such terms are defined in the Code; and,

WHEREAS, the Clerk and Recorder and the Municipality have determined that it is in the best interests of their respective residents to cooperate and contract concerning the election upon the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the promises herein contained, the sufficiency of which is acknowledged, the Parties hereto agree as follows:

AGREEMENT

ARTICLE I: DUTIES OF THE CLERK AND RECORDER

1. **COORDINATED ELECTION OFFICIAL.** The Clerk and Recorder shall act as the “Coordinated election official,” pursuant to § 1-1-104(6.5), C.R.S., and shall be responsible for the conduct of the election, which shall be in accordance with the provisions of the Code, the Taxpayer’s Bill of Rights, Colo. Const. art. X, § 20, hereinafter referred to as “TABOR,” and any pertinent Rules promulgated by the Colorado Secretary of State, hereinafter referred to as the “Rules.”

2. **NO RUN-OFF ELECTION.** This Agreement is for the November 2, 2021 election only. In the event the Municipality’s Code and/or Charter provide for a run-off election, and a run-off election becomes necessary, the Adams County Clerk and Recorder will not conduct that election for the Municipality.

3. **CONTACT OFFICER.** The Election Administrator, Jami Gaultney, will be the designated contact officer and will act as the primary liaison between the Election Office and the Municipality for purposes of the election. Jami Gaultney can be reached at (720) 523-6421 or jgaultney@adcogov.org.

4. **VOTER LISTS.** Upon the request of the Municipality, the Clerk and Recorder shall provide to the Municipality a list of the names and addresses of the registered voters in the Municipality. The list shall be certified by the Clerk and Recorder upon the request of the Municipality designated election official. If the Municipality believes the Clerk and Recorder’s voter registration list is inaccurate, the Municipality shall immediately advise the Clerk and Recorder and shall work with the Clerk and Recorder on corrections and revisions in a timely manner.

5. **VOTING.** The Clerk and Recorder shall provide for voter service and polling centers, mail, emergency, and provisional voting, pursuant to the relevant provisions of the Code and/or the Rules.

6. **CERTIFICATION OF RESULTS.** The Clerk and Recorder shall appoint a canvass board, pursuant to § 1-10-101 or § 1-10-201, *et seq.*, C.R.S.

7. **RECORDS AND STORAGE.** The Clerk and Recorder shall store all election records, and any other such materials as required under the Code, for a period of at least twenty-five (25) months after the election. Such storage shall be accessible by the Municipality, if legally necessary, upon accompaniment by the Clerk and Recorder or a designated representative, to resolve any challenges or other legal questions that might arise. In addition, upon request, the Clerk and Recorder shall compile a list of the names of persons who vote in the election and, shall provide to the Municipality a printed or electronic list containing the names of those persons.

ARTICLE II: DUTIES OF THE MUNICIPALITY

1. DESIGNATED ELECTION OFFICIAL. The Municipality has designated **DYLAN GIBSON, CITY CLERK**

(303) 227-8791

DGIBSON@C3GOV.COM,

as its “designated election official,” pursuant to § 1-1-104(8), C.R.S. The designated election official shall act as the primary liaison between the Municipality and the Clerk and Recorder. The municipality may provide a secondary contact via email to jgaultney@adcogov.org. All communications concerning the election, whether oral or in writing, shall be directed to the Adams County Election Department, 4430 S. Adams County Parkway, Suite E3102, Brighton, Colorado 80601; phone number: (720) 523-6421; and facsimile number: (720) 523-6266. Email communications are preferred and should be sent to jgaultney@adcogov.org.

2. ORDINANCE OR RESOLUTION. In order to avoid any potential discrepancies and as allowed by § C.R.S. 1-1-102, the Municipality will pass an Ordinance or Resolution indicating that it will utilize and be subject to the requirements and procedures of the Uniform Election Code of 1992 while participating in this election and that said Code will apply in lieu of the “Colorado Municipal Election Code of 1965”, article 10 of title 31, C.R.S., with respect to any election. Municipality will supply a copy of this Ordinance or Resolution when returning a signed copy of this IGA to the Clerk and Recorder.

3. STREET LOCATOR FILE. In order for the Clerk and Recorder to provide correct ballots to electors, it is critical that the information contained in the Municipality’s street locator file be accurate. It is the Municipality’s responsibility to ensure that the information contained in the street locator file is an accurate representation of the Municipality’s street indexes contained within the Municipality’s legal boundaries.

As long as the Clerk and Recorder has been timely notified of the Municipality’s intent to participate in the election, the Clerk and Recorder will provide to the Municipality a street locator file by **July 28, 2021**.

- The file will contain a list of the street address ranges the Clerk and Recorder’s system currently shows as being located in the Municipality.
- The designated election official for the Municipality shall inspect the information contained in the locator file and shall notify the Clerk and Recorder’s Office by **August 13, 2021** of any changes, additions or deletions that need to be made. If required, the Clerk and Recorder will make the required changes and resubmit the locator file to the Municipality.
- The Municipality will inspect the file and shall make a final certification as to the accuracy of the locator file by no later than **September 3, 2021**.
- If the locator information and/or certification are not provided by the Municipality on the date specified herein, the Municipality may not participate in the election on **November 2, 2021**.

4. LEGAL NOTICES. The Clerk and Recorder shall publish notice of the election, as required by the Code, and such publication shall satisfy the publication requirement for all political subdivisions participating in the election, pursuant to § 1-5-205(1.4), C.R.S. However, the Municipality shall post and/or publish any other legal notices required of the Municipality, pursuant to relevant provisions of its charter, the Code, TABOR, the Rules, or the Colorado Municipal Code of 1965, § 31-10-101, *et seq.*, C.R.S., except as otherwise provided herein.

6. PETITIONS. Petitions, where applicable, shall be made available through the Municipality's designated election official, pursuant to the applicable laws and/or rules.

7. VERIFICATION OF PETITIONS. Petitions shall be verified by the Municipality, pursuant to the applicable laws and/or rules. The Clerk and Recorder will provide access to voter registration information to the Municipality if petitions are verified.

8. WRITE-IN CANDIDATES. Affidavits of intent to become a write-in candidate, where applicable, shall be filed with the Municipality's designated election official, pursuant to the applicable laws and/or rules, and a copy will be provided to the Clerk and Recorder.

9. BALLOT CERTIFICATION AND PREPARATION. The Municipality shall provide to the Clerk and Recorder the Municipality's ballot text by no later than **September 3, 2021 at 3:00 p.m.**, which is sixty (60) days prior to the election, pursuant to § 1-5-203(3)(a), C.R.S.. The Municipality shall be solely responsible for the language, content, and accuracy of the ballot text.

In accordance with § 1-5-407(7), C.R.S., no printing or distinguishing marks shall be on the ballot except as specifically provided in the Code. Additionally, the ballot text shall be submitted by e-mail as an attachment that conforms to the following requirements, to Jami Gaultney at jgaultney@adcogov.org. Ballot questions and issues will be designated a number and a letter after ballot certification.

The ballot text, sample attached as "Exhibit A", shall be provided:

- In Microsoft Word format
- In Arial 10 point font
- With no extraordinary formatting (including, but not limited to, no bullets, text boxes, charts, spreadsheets, bolding, strike-outs, strike-throughs, parenthesis, or symbols)
- Ballot issue title and text shall be provided in all caps
- All contests must include the "term of office" and "vote for #" information

For purposes of consistency, when candidates choose to use nicknames they will appear on the ballot in quotation marks as follows: First Name "Nickname" Last Name.

An audio recording of all candidate names for Municipality's portion of the ballot must be provided by having the candidates call (720) 523-6046 and follow the recorded instructions by no later than the ballot certification deadline of **September 3, 2021 at 3:00 p.m.**

Within one (1) business day of receiving a “proof-ready” copy of the ballot text from the Clerk and Recorder, the Municipality shall proof and authorize the text and layout of its portion of the ballot prior to the printing of ballots. The Municipality will be allowed to make corrections to the ballot proof copy only within the one (1) business day period. If there is no response within the allotted proofing period, the District’s portion of ballot text will be approved for printing.

10. ELECTION TESTING, AUDIT AND RESULTS. The Municipality may attend and observe any ballot testing, as scheduled by the Clerk and Recorder, prior to the election. The Municipality may also attend and observe any logic and accuracy or post-election audit conducted after Election Day, pursuant to §§ 1-7-509 and 1-7-514, C.R.S. Election results will not be final and official until certified by the canvass board, which may be up to 22 days after Election Day.

11. ELECTION DAY. On Election Day, the Municipality shall provide election support by telephone and/or in-person from 7 a.m. until 7 p.m. or longer, as requested by the Clerk and Recorder. The Municipality must also act as a voter registration agent as required by § 1-2-202 (2), C.R.S., and assist voters with “same day voter registration” needs, if a voter appears and requests such service.

12. REFERENCE CALENDAR. The Municipality will comply with all of the dates listed in the Important Elections Dates calendar attached as “Exhibit B”.

ARTICLE III: TABOR

The Municipality shall be solely responsible for its compliance with the requirements of TABOR, Colo. Const. art. X, § 20, for the purposes of the election, unless otherwise specified herein.

If the Municipality is required to prepare a TABOR notice for any ballot issue(s), the Municipality shall be solely responsible for its preparation, accuracy, and the language contained therein, and shall submit such notice, including pro and con summaries and fiscal information, to the Clerk and Recorder by no later than **September 20, 2021 at 3:00 p.m.**, which is forty-three (43) days prior to the election, pursuant to § 1-7-904, C.R.S. Such notice, including pro and con summaries and fiscal information, shall be submitted by e-mail as an attachment that conforms to the following requirements to Jami Gaultney at jgaultney@adcogov.org.

The notice, sample attached as “Exhibit C”, shall be provided:

- in Microsoft Word format
- in Arial 10 point font
- with no extraordinary formatting (including, but not limited to, no bullets, text boxes, charts, spreadsheets, strike-outs, strike-throughs, bolding, or symbols)

If the Clerk and Recorder is responsible for preparing a TABOR notice package, the Clerk and Recorder shall do so in compliance with the provisions of TABOR, Colo. Const. art. X, § 20, and any pertinent Rules.

Except as otherwise specified herein, the Clerk and Recorder shall in no manner be responsible for the Municipality’s compliance with the requirements of TABOR, nor shall the Clerk and Recorder in any manner be responsible for the language contained in the TABOR notice(s) prepared by the Municipality.

The Municipality shall be solely responsible for calculating and providing to the Clerk and Recorder any fiscal information necessary to comply with TABOR, Colo. Const. art. X, § 20(3)(b), and the Clerk and Recorder shall in no way be responsible for the accuracy of the fiscal information, which shall be placed in the ballot issue notice as provided by the Municipality.

If applicable, pursuant to § 1-7-906(2), C.R.S., the Municipality shall be responsible for mailing the ballot issue notice packet to each address of one or more active registered electors who do not reside within the County.

Within one (1) business day of receiving a “proof-ready” copy of the TABOR notice from the Clerk and Recorder, the Municipality shall proof and authorize the text and layout of its portion of the notice prior to the printing of notices. The Municipality will be allowed to make corrections to the notice proof copy only within the one (1) business day period. If there is no response within the allotted proofing period, the District’s portion of the TABOR Notice will be approved for printing.

ARTICLE IV: COSTS

The Municipality shall reimburse the County for its prorata share of the actual costs of the election, as permitted under § 1-7-116(2)(b), C.R.S., including the costs associated with the mailing of the TABOR notice package (if applicable). Such proration shall be made based upon a formula of active registered voters within each entity participating in the election. The prorated actual costs shall include those expenses permitted by state law including, but not limited to, the costs of temporary labor, part-time labor, overtime, postage, equipment delivery, extraordinary equipment rental, printing, legal publications, mailings, materials, voter service and polling centers if applicable, election worker expenses, and other costs. There may be additional factors, for example anticipated voter turnout, that may affect this cost estimate. A multiple page ballot is possible and will result in additional costs. Actual costs may include charges for extraordinary ballot question length if said length results in increased printing costs. Minimum election cost is \$100.

For the 2021 election, it is estimated that costs to the Municipality will be approximately \$2.00 per active registered voter in the Municipality. This is an estimate only.

TABOR notice costs will be additional and will be billed for printing based on the number of pages consumed by the Municipality. TABOR notice costs will be based on the number of active registered voter households in the Municipality. There is a \$100 TABOR notice cost for entities with 1,000 voters or less. The TABOR notice cost for entities with 2,000 voters or less is \$500. Fees for Districts with more than 2,000 voters are based on proportional actual costs.

In the event Municipality has a mandatory recount, Municipality will be responsible and charged for the actual cost incurred by the County for conducting the recount.

In the event that there is an error in the ballot language certified to the Clerk and Recorder by the Municipality, and the Municipality requests that it be corrected, the Clerk and Recorder will make its best effort to correct the error on the ballot if time and circumstance allow. However, the Municipality will be responsible for the cost of correcting the error, including, but not limited to all costs associated with reprinting the ballots.

The Clerk and Recorder shall submit to the Municipality an invoice for all expenses incurred under this Agreement, and the Municipality shall remit to the Clerk and Recorder the total payment within thirty (30) days of the receipt of such invoice. If the invoice is not paid in full within thirty (30) days, the balance due may be subject to a ten percent (10%) per annum interest rate from the date due until paid in full.

ARTICLE V: CANCELLATION OF THE ELECTION

In the event the election is canceled, notice of such cancellation shall be provided by the Municipality to the Clerk and Recorder. The Municipality shall reimburse the Clerk and Recorder for the actual expenses incurred in preparing for the election, and those expenses shall be paid by the Municipality to the Clerk and Recorder within thirty (30) days of the receipt of an invoice therefor. If cancellation occurs after the certification deadline, full election costs may be incurred. If the actual expenses are not paid in full within thirty (30) days, the balance due may be subject to a ten percent (10%) per annum interest rate from the date due until paid in full.

ARTICLE VI: DAMAGES

Subject to the provisions of the Colorado Governmental Immunity Act, each party assumes liability for losses, costs, demands or actions arising out of or related to any actions, errors or omissions of its officers, employees, or agents in fulfilling its responsibilities for the election or under this Agreement. Nothing contained in this Agreement shall constitute any waiver by either party of the provisions of the Colorado Governmental Immunity Act or any other immunity or defense provided by statute or common law.

ARTICLE VII: CONDUCT OF THE ELECTION

It is the intent of the Parties that the Clerk and Recorder shall conduct the election and the Municipality shall timely supply the Clerk and Recorder with all information needed for that part of the election that is related to the Municipality.

ARTICLE VIII: MISCELLANEOUS

1. COUNTERPARTS AND ELECTRONIC SIGNATURES. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures.

2. NOTICES. Any and all notices required to be given to the Parties by this Agreement are deemed to have been received and to be effective: a) three (3) days after the same shall have been mailed by certified mail, return receipt requested; b) immediately upon hand delivery; or c) immediately upon receipt of confirmation that a facsimile transmission thereof was received. All notices shall be addressed to the following Parties:

For the Clerk and Recorder:

Josh Zygielbaum
Adams County Clerk and Recorder
4430 S. Adams County Parkway
Suite E3102
Brighton, Colorado 80601
Phone: (720) 523-6500
Facsimile: (720) 523-6266
E-mail: jzygielbaum@adcogov.org

Jennifer D. Stanley, Assistant County Attorney
Adams County Attorney's Office
4430 S. Adams County Parkway, Suite C5000B
Brighton, Colorado 80601
Phone: (720) 523-6116
Facsimile: (720) 523-6114
E-mail: jstanley@adcogov.org

For the Municipality:

DYLAN GIBSON, CITY CLERK

COMMERCE CITY, COLORADO

7887 E 60TH AVE

COMMERCE CITY, CO 80022

(303) 227-8791

DGIBSON@C3GOV.COM

3. INTEGRATION OF UNDERSTANDING. This Agreement contains the entire understanding of the Parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by all of the Parties.

4. SEVERABILITY. If any provision of this Agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect. No subsequent resolution or ordinance enacted the Municipality shall impair the rights of the Clerk and Recorder or the Municipality hereunder without the written consent of the Parties.

5. TIME OF ESSENCE. Time is of the essence under this Agreement. The statutory time frames or requirements of the Code, TABOR, and the Rules shall apply to the completion of any duties or tasks required under this Agreement.

IN WITNESS WHEREOF, the Parties have signed this Agreement to be effective as of the date first written above.

CLERK AND RECORDER
ADAMS COUNTY, COLORADO

Josh Zygielbaum

Date

Approved as to form:

Adams County Attorney's Office

FOR THE Municipality:

Name: Roger Tinklenberg

Title: City Manager

Date

ATTEST:

Municipal Clerk

Date

Approved as to form:

Municipality Attorney's Office

Exhibit A

Ballot Text Examples

Contests

“District” “Office”

“Term of Office”

“(Vote for #)”

“Candidate names in Arial 10 point font and upper/lower case”

Ballot Questions

“District” Question “#”

“Ballot Title”

“Print ballot question in Arial 10 point font and upper/lower case text.”

Ballot Issue

“DISTRICT” BALLOT ISSUE “#”

“BALLOT TITLE”

“PRINT BALLOT ISSUE IN ARIAL 10 POINT FONT AND ALL UPPERCASE TEXT.”

Exhibit B

Important Election Dates

The following are dates of important activities related to the 2021 election for reference by the Municipality.

2021 Election Activity Dates	
7/23	Last day for Municipality to notify Clerk of intent to participate
7/28	Clerk supplies Municipality with street locator file
8/13	Last day for Municipality to notify Clerk of street locator file discrepancies
8/24	Last day to sign IGA
9/3	Last day for Municipality to file ballot content with Clerk
9/3	Last day for Municipality to provide audio recording of candidates' names
9/3	Last day for Municipality to certify street locator file
9/20	Last day for Municipality to certify TABOR content, if applicable
11/2	Election day – Municipal Clerk’s office must be open 7 a.m. - 7 p.m. to assist voters

Exhibit C

TABOR Notice Example

NOTICE OF ELECTION TO XXXXXXXX XXXXX

[two line spaces]

Election Date: Tuesday, November 2, 2021
Election Hours: 7:00 AM – 7:00 PM

Local Election Office: Name of Designated Election Official
Entity
Street Address
City, CO Zip
(xxx) xxx-xxxx [phone] [extension if applicable]

[two line spaces]

Ballot title and text of ballot issue:

XXXXXX
XXXXXXXXXX
XXXXXX
XXXX
XXXX
XXXX

Fiscal Information [insert table, type in info]

Fiscal Year	Fiscal Year Spending
20xx (Actual)	\$ xxx,xxx,xxx
20xx (Actual)	\$ xxx,xxx,xxx
20xx (Actual)	\$ xxx,xxx,xxx
20xx (Actual)	\$ xxx,xxx,xxx
20xx (Estimated)	\$ xxx,xxx,xxx

Then undo table borderlines, content will be in column alignment

Fiscal Year	Fiscal Year Spending
20xx (Actual)	\$ xxx,xxx,xxx
20xx (Actual)	\$ xxx,xxx,xxx
20xx (Actual)	\$ xxx,xxx,xxx
20xx (Actual)	\$ xxx,xxx,xxx
20xx (Estimated)	\$ xxx,xxx,xxx

Overall percentage change xxxXXXxxxxxxxx:	percentage
Overall dollar xxxxxxxxxxxxxxxxxxxXXXxxxxxxxx:	\$ xx,xxx,xxx
Estimated 20xx (first full fiscal year)xxxxxxx:	\$ xx.xxx.xxx
Estimated 20xx fiscal year spending xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx	
Xxx:	\$ xx,xxx,xxx

Information on District's Current **Debt***

xxxxx
xxxxx

Please do not use underscore line or footnote for *

Type only the * and comment

Summary of Written Comments FOR xxxxxxxx:

Summary of Written Comments AGAINST xxxxxxxx: